



New Jersey Department of Children and Families Policy Manual

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Rights of Juveniles

10-5-2009

Generally, juveniles appearing before the Family Court have the same constitutionally guaranteed rights as adults. The right to counsel is specifically guaranteed by N.J.S.A. 2A:4A-39 at "... every critical stage in the proceeding which, in the opinion of the court may result in the institutional commitment of the juvenile." Such cases are listed on the formal court calendar. For cases on the informal calendar or JFC petitions, counsel is permitted but not required.

Three constitutional rights of adults have not been extended to juveniles (N.J.S.A. 2A:4A-40):

- the right to bail;
- the right to indictment by a grand jury; and
- the right to a trial by jury.

Juveniles may be assigned counsel through the Public Defender's Office. The parents and child must complete the Application for Assignment of Counsel, Form 5A, to determine if they are financially eligible for court-appointed counsel. The CP&P Worker may complete and sign the form only when:

- the child is under CP&P guardianship; or
- the child is under the custody of CP&P, and the parents' whereabouts are unknown or they cannot be readily located.

The Worker contacts the Deputy Attorney General through his Supervisor, if he or she is ordered by the judge to sign the form without either condition being met.

N.J.S.A. 2A:4A-34 lists the criteria under which a juvenile charged with a delinquency offense may be held in secure detention:

- detention is necessary to secure the juvenile's presence at the next hearing; or
- the safety of persons or property would be seriously threatened if the juvenile were released, and he or she is charged with a crime, a repetitive

disorderly persons offense, or a high misdemeanor as defined by the New Jersey Controlled Dangerous Substances Act.

Juveniles may be detained only in facilities approved by the Department of Corrections. They cannot be held in any prison, jail, lockup, or police station where adults are held. Juveniles may be held briefly in a police station, separate from adult prisoners, while awaiting release to a parent(s) or other approved person or facility. N.J.S.A. 2A:4A-34 and N.J.S.A. 2A:4A-37.

Juveniles involved in a juvenile-family crisis may be placed by Court Intake in a temporary out-of-home placement, such as a host home, foster or group home, or county shelter care facility. Such temporary placement may take place only when:

- the juvenile refuses to stay home or return home;
- the parents refuse to allow the child to stay home or return home;
- the physical safety of the juvenile is threatened; or
- the juvenile needs immediate care in an out-of-home placement.

Juveniles cannot be placed in a secure detention or correctional institution. N.J.S.A. 2A:4A-87 - 88.

For a juvenile's rights to the confidential handling of mental health-related information, see [CP&P-IX-G-1-100](#), sections N.J.S.A. 2A:4A-60 - Disclosure of Juvenile Information; Penalties for Disclosure, N.J.S.A. 2A:4A-60.2 - Disclosure, Use of Juvenile's Statement Made in Course of Screening, and N.J.S.A. 2A:4A-60.3 - Disclosure of Juvenile's Information to Court; Conditions.

Fact Finding Hearing

11-2-87

One or more hearings are held before the judge to present the facts of the case. The prosecutor and defense attorneys may be present. Witnesses may be called and cross-examined. Evidence may be presented. N.J.S.A. 2A:4A-86.

Adjudication Hearing

11-2-87

A separate adjudication hearing is held for the judge to render his verdict about whether the child is guilty or innocent of the charges. This hearing may follow directly the fact finding hearing or may take place on another day.

The judge rules that either the child is a delinquent or is not or that a juvenile-family crisis exists or does not. N.J.S.A. 2A:4A-86.

Dispositional Hearing

10-5-2009

The "disposition" is the sentence received. The judge must enter a disposition within thirty (30) days of adjudication, if the child is in detention or shelter care; otherwise, within sixty (60) days. The hearing may take place directly subsequent to the adjudication hearing, or on another day.

In order to understand a juvenile's situation, the judge may refer the child for examination and evaluation before making a disposition. The judge may also

convene a predispositional conference with agencies and individuals knowledgeable about the child. CP&P is among the agencies which may be consulted. N.J.S.A. 2A:4A-41 and 42. The judge may also obtain a statement from the victim of the offense, and consider his or her recommendations before making the disposition.

If CP&P provides a report (commonly known as a “14 day plan”) prior to disposition, the assigned Worker or Court Liaison provides the plan directly to the juvenile’s defense attorney, to satisfy the constraints of N.J.S.A. 2A:4A-60.3, and notices the court of the completion of the plan and its delivery to the defense attorney. See [CP&P-IX-G-1-100](#).

There are twenty dispositions available for delinquents and six available for juvenile-family crisis. Dispositions which may be ordered for both delinquents and juvenile-family crises are:

- release of child to parent’s supervision;
- transfer custody to relative or other qualified person;
- place under the care of the Department of Children and Families, under the responsibility of CP&P, for the purpose of providing services in or out of the home;
- place under the care of the Department of Children and Families, under the responsibility of the Division of Child Behavior Health Services, for the purpose of providing mental/behavioral health services, referral, or out-of-home placement in a residential treatment program;
- place under the care and custody of the Department of Children and Families for the purpose of receiving services of the Division of Developmental Disabilities, if the child is eligible;
- pursuant to commitment statutes, commit to the Department of Human Services under the responsibility of the Division of Mental Health and Hospitals for a placement for the treatment of the mentally ill;
- participate in academic or vocational education or counseling, with required attendance. N.J.S.A. 2A:4A-46.

The court may order the juvenile, parents or guardian, or family members contributing to the juvenile-family crisis or delinquency to participate in appropriate programs and services. N.J.S.A. 2A:4A-43 and N.J.S.A. 2A:4A-86.

Other dispositions available for delinquents are:

- continuance for up to twelve months, with dismissal of complaint if the juvenile makes a satisfactory adjustment;
- probation supervision for up to three years;
- impose a fine not greater than an adult can receive;
- restitution;
- perform community services;

- participate in a work program;
- participate in a self-reliance program, such as intensive outdoor survival skills;
- treatment for alcohol or narcotics abuse, only if determined to be in need of such services;
- intensive, nonresidential service program;
- place in the custody of the Department of Corrections for placement in a private residential facility;
- postpone, suspend, or revoke the driver's license, vehicle registration, or both, of any juvenile who used a motor vehicle to commit the act for which he or she was adjudicated delinquent;
- satisfy other conditions reasonably related to rehabilitation;
- incarcerate in a detention facility for the maximum of sixty (60) days, in a facility approved for such purpose by the Department of Corrections; or
- incarceration in a Department of Corrections institution for a period not to exceed the maximum sentence, if the crime were committed by an adult.

Juveniles may be paroled for a period not to exceed the maximum adult sentence when added to the time served. Parole supervision is handled by the Bureau of Parole. N.J.S.A. 2A:4A-43 - 44.

Disposition of Placing Under the Responsibility of CP&P

10-5-2009

When the disposition is to place the child under the responsibility of CP&P for the purpose of providing services to the child and family in, or out of the home, CP&P must submit a service plan to the court. This is done within fourteen (14) days of the order, with a maximum of thirty (30) days for good cause shown. (This is generally known as the "14 day plan.")

To protect the juvenile's right to confidentiality (N.J.S.A. 2A:4A-60.3, see policy [CP&P-IX-G-1-100](#)), the assigned Worker or Court Liaison provides the plan directly to the juvenile's defense attorney, and notices the court of the completion of the Division's 14-day plan and its delivery to the defense attorney. The plan is presumed valid.

The New Jersey Appellate Court has ruled that the court cannot commit a child to CP&P and order a specific placement to be paid for by CP&P. When the court orders an out-of-home placement, CP&P decides the type of placement needed and the specific placement. If the court determines the service plan is inappropriate, CP&P may request a hearing. N.J.S.A. 2A:4A-43.

Appeals

11-2-87

After the hearing, if CP&P and the court are still not in agreement with the service plan, CP&P consults with the Deputy Attorney General regarding an appeal. The court's order is binding unless it is vacated, modified, stayed or overturned on appeal. CP&P complies with a standing court order.

Termination of Court Orders

1-14-2013

Court orders are terminated when the child reaches eighteen or three years from the date of the order, whichever is later. Exceptions to this are court orders which specify an earlier termination or those involving incarceration. N.J.S.A. 2A:4A-47.